UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 08-11787-RGS

REVEREND GENE SCHOFIELD

v.

WILLIE MILES JOHNSON, et al.

MEMORANDUM AND ORDER ON
PRIOR ORDER TO SHOW CAUSE

April 28, 2009

STEARNS, D.J.

Gene Schofield, who is currently incarcerated at MCCI-Gardner, filed this self-prepared Complaint alleging misconduct on the part of the Brockton District Court, Eric Donovan, the Assistant Clerk-Magistrate of the Brockton Court's small claims session, and Willie and Maria Johnson, former church colleagues. Schofield alleges that during the litigation of a small claims action between Schofield and Willie Johnson, Donovan wrongly denied certain of his motions, falsified the docket, and was rude and personally biased. Schofield also alleges that Willie and Maria Johnson wrongly retained, lost, or destroyed papers involving his religious activities. In his seventeen-count complaint, Schofield seeks relief for violations of his constitutional rights and for violations of state law.

On November 4, 2008, the court issued a Memorandum and Order granting Schofield's motion for leave to proceed *in forma pauperis* and directing him to show cause why the action should not be dismissed. The court pointed out that the Brockton District Court was entitled to absolute immunity from suit under the Eleventh Amendment, and

moreover, that the state court was not a "person" within the meaning of 42 U.S.C. § 1983. The court also observed that Donovan was entitled to absolute judicial immunity. See Pierson v. Ray, 386 U.S. 547, 553-554 (1967) (holding that judges are immune "from liability for damages for acts committed within their judicial jurisdiction . . . even when the judge is accused of acting maliciously and corruptly."). Because Schofield's Complaint failed to set out any durable claim under federal law, the court declined to consider his remaining state claims. See Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 n.7 (1988). Nonetheless, because the case was at an incipient stage, the court gave Schofield thirty-five (35) days to show cause why a conclusive order of dismissal should not enter.

Schofield filed a response to the court's order on November 24, 2008. In his submission, Schofield concedes the lack of jurisdiction over claims against the Brockton District Court, but contends that because Donovan is not a tenured state judge, he is at most entitled to qualified immunity. Schofield contends that a dismissal on the basis of qualified immunity without permitting discovery from Donovan regarding his motive for making the rulings that he did in Schofield's case would be improper.

While Schofield's argument is cogently presented, it is wrong in two respects. While Donovan is not a state court judge, judicial immunity extends to actors in the judicial system who are authorised to perform quasi-judicial functions by law. See Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 435-436 (1993). Donovan is such an actor. See Mass. Gen. Laws ch. 218, § 21 (authorizing Clerk-Magistrates to preside in small claims trials). Cf. Baker v. McCollan, 443 U.S. 137, 145-146 (1979) (judicial immunity extends to police officers executing court-issued arrest warrants); Mays v. Sudderth, 97 F.3d 107,

113-114 (5th Cir. 1996) (same, sheriff serving judicial process); Temple v. Marlborough Div. of the Dist. Court Dep't, 395 Mass. 117, 133 (1985) (same, court clerk acting at a judge's direction). "The policy justifying an extension of absolute immunity in these circumstances is to prevent court personnel and other officials from becoming a 'lightning rod for harassing litigation' aimed at the court." Richman v. Sheahan, 270 F.3d 430, 435 (7th Cir. 2001).

In the second instance, Schofield misapprehends the purpose of qualified immunity. In Harlow v. Fitzgerald, 457 U.S. 800 (1982), the Supreme Court eliminated any subjective aspect from the qualified immunity standard articulated in Wood v. Strickland, 420 U.S. 308, 322 (1975). The intent was to weed out insubstantial claims prior to trial by permitting a first-instance court to determine as a matter of law the legal reasonableness of an official's actions. Thus, "[b]are allegations of improper purpose, like the bare allegations of malice rejected in Harlow, do not suffice to drag officials into the mire of discovery." Smith v. Nixon, 807 F.2d 197, 200 (D.C. Cir. 1986). See also Brown v. Ives, 129 F.3d 209, 211 (1st Cir. 1997). That is the case here.

ORDER

For the reasons stated in this Memorandum and Order, as well as those stated in the court's November 4, 2008 Order, this action is DISMISSED. The Clerk will enter judgment for defendants on the federal claims and note the court's declination of jurisdiction over the state claims. The case is then to be closed.

SO ORDERED.

UNITED STATES DISTRICT JUDGE